

OCT 18 2005**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RICHARD LEWIS SEYMOUR,

Defendant - Appellant.

No. 04-30539

D.C. No. CR-03-00162-BLG

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Montana
Richard F. Cebull, District Judge, Presiding

Submitted October 11, 2005^{**}

Before: T.G. NELSON, WARDLAW and TALLMAN, Circuit Judges.

Richard Lewis Seymour appeals the district court's judgment imposing a 63-month sentence following his guilty-plea conviction for making a false statement during a firearms purchase, in violation of 18 U.S.C. §§ 922(a)(6) and 924(a)(2).

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Pursuant to *Anders v. California*, 386 U.S. 738 (1967), counsel for Seymour has filed a brief stating that he finds no grounds for relief, along with a motion to withdraw as counsel of record. No pro se supplemental brief or answering brief has been filed.

We have conducted an independent review of the record pursuant to *Penson v. Ohio*, 488 U.S. 75, 83 (1988). We affirm the conviction. We remand the sentence for further proceedings consistent with *United States v. Ameline*, 409 F.3d 1073, 1084-85 (9th Cir. 2005) (en banc), and *United States v. Moreno-Hernandez*, 419 F.3d 906, 916 (9th Cir. 2005) (extending *Ameline*'s limited remand procedure to cases involving non-constitutional *Booker* error).

Counsel's motion to withdraw as counsel on appeal is denied.

The conviction is **AFFIRMED**, and the sentence is **REMANDED**.